

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X **Index No.:**
ANONYMOUS, TE

Plaintiff,

-against-

AFFIDAVIT

**ARCHDIOCESE OF NEW YORK, CARDINAL
HAYES HIGH SCHOOL AND CATHOLIC HIGH
SCHOOL ASSOCIATION OF NEW YORK**

Defendants.

-----X

AFFIDAVIT OF PATRICK NOAKER

State of Minnesota)
) ss
County of Hennepin)

I, Patrick Noaker, do hereby swear and affirm as follows:

1. I am over 18, of sound mind, and am otherwise qualified to offer the facts set forth herein.

2. My law firm, Noaker Law Firm LLC, has been retained by the Plaintiff in this action to represent him in an action against Archdiocese of New York, Cardinal Hayes High School and Catholic High School Association of New York.

Factual History

3. The Plaintiff in this action alleges that his Dean of Discipline at Cardinal Hayes High School, Br. John Justin O'Connor, sexually assaulted him.

4. These sexual assaults occurred from approximately 1984 through 1985, when the Plaintiff was approximately 15 to 16 years old.

5. These sexual assaults occurred on the premises of Cardinal Hayes High School.

6. Before Plaintiff was sexually abused by Br. John Justin O'Connor, Defendants had actual or constructive knowledge of material facts regarding Br. John Justin O'Connor's sexual misconduct, impulses, and behavior. Specifically, Br. John Justin O'Connor inappropriately touched minor students by grabbing students' belts and touching the genitals of students while in the hallway in front of his office in full view of other teachers and students at Cardinal Hayes High School. These actions by O'Connor occurred during the time between classes when students and teachers were in the hallway.

7. The suit he intends to file, seeks damages against Archdiocese of New York, Cardinal Hayes High School and Catholic High School Association of New York, Br. John Justin O'Connor's employers.

8. The manner in which Br. John Justin O'Connor is alleged to have touched him is illegal conduct ("sexual contact") as defined by Article 130.00 of the New York Penal Code.

9. Plaintiff brings this suit within the extended time period as provided for in Sections 208 and 214-G of the Civil Practice Law.

Proceeding Using a Pseudonym

10. The identity of any victim of a sex offense, including those prohibited by Article 130, **shall** be confidential. N.Y. Civ. Rights Law § 50-b (1); Doe v. New York Univ., 786 N.Y.S.2d 892 (NY Sup. Ct. 2004). No records (including a court file) or other documents in the custody or possession of any public employee that identify a victim of a sex offense shall be made available for public inspection. N.Y. Civ. Rights Law § 50-b (1). Upon signing this section of the Civil Rights Law in 1991, Gov. Mario Cuomo stated: "sexual assault victims have unfortunately had to endure a terrible invasion of their physical privacy. They have a right to

expect that this violation will not be compounded by a further invasion of their privacy.” Doe v. Kolko, 242 F.R.D. 193, 196 (E.D.N.Y. 2006) (internal citations omitted).

11. Given the nature of the allegations, Anonymous TE has a vested interest in maintaining his anonymity to avoid additional harm, including to his mental health and to his employment, were his identity and intimate details of his life to become known to the general public.

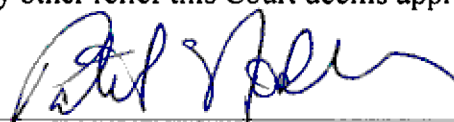
12. Given that the plaintiff alleges that he was assaulted at a school that served hundreds of children over the years who may have been exposed to Br. John Justin O'Connor, there is a strong public interest in allowing these court proceedings to remain open and available.

13. Therefore, he asks for the Court’s permission to file this action and otherwise be identified in the court file by the pseudonym “Anonymous TE.” Such a solution balances his privacy rights under New York’s Civil Rights Laws with the general public’s interest in open court proceedings.

14. The general public has no articulable interest in knowing the Plaintiff’s identity. On the contrary, if he is not allowed to proceed using a pseudonym it may have a chilling effect on this case (e.g., he will likely elect not to proceed with it) and upon the reporting of sexual assaults generally because victims fear additional harm, shame, embarrassment, and retaliation for their allegations. See, e.g., Doe v. Kolko, 242 F.R.D. 193, 195 (E.D.N.Y. 2006) (“Additionally, the public generally has a strong interest in protecting the identities of sexual assault victims so that other victims will not be deterred from reporting such crimes”) (internal citations omitted). Even where a court “traditionally disfavors the use of pseudonyms,” they generally recognize that “sexual assault victims are a paradigmatic example of those entitled to a grant of anonymity.” Id. Therefore, the public interest is well-served by allowing the plaintiff to proceed using a pseudonym in this case.

15. There is no prejudice to the defendants by allowing him to proceed using a pseudonym. His identity has already been, or at the time of service will be, made known to the defendants and their counsel so as to allow them to investigate and to defend these claims.

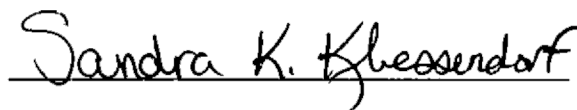
16. Therefore, the Plaintiff respectfully requests that this Court enter an Order allowing him to proceed using a pseudonym and otherwise not be identified in the public court file except by that pseudonym, and entering any other relief this Court deems appropriate.



Patrick Noaker

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

On August 13, 2019, before me personally appeared Patrick Noaker, who is personally known to me and sufficiently proved that by his signature he executed the above instrument.



Sandra K. Kluessendorf
Printed Name

My Commission Expires:

January 31, 2023

